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09/719,256	12/07/2000	Peter Leslie Hart	BKR-21102/01	5947

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EXAMINER

ADDIE, RAYMOND W

ART UNIT PAPER NUMBER

3671

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/719,256

Applicant(s)

HART, PETER LESLIE

Examiner

Raymond W. Addie

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,6,7 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,6,7 and 17-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 6, 16 are objected to because of the following informalities:

Claim 6, ln. 2, the phrase "in which the depth of the or each channel is not greater than"; appears to missing a word.

Claim 16, lns 1-2, the phrase "as claimed claim 21" should be --as claimed in claim 21--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6, 7, 16, 20, 21, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Barth et al. # 5,797,698.

Barth et al. discloses a paving stone (2) having interconnected lateral sides (4), which are capable of disposed adjacent lateral sides (4) of similar paving stones (2), for the intended use in building streets, roads & court yards. See col. 1, lns. 12-31.

Said paving stones comprising:

Parallel, planar, opposing upper & lower surfaces (6).

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Said lateral surfaces (4) extending between said upper and lower surfaces (6) and further comprising: a vertical planar lower portion for being disposed adjacent neighboring stones (2), and an upper tapered portion (22). See col. 2, Ins. 31-44; col. 3, Ins. 35-47.

At least one recess (10a-d, 20), having a width greater than its depth, disposed in each lateral surface (4).

Wherein said upper tapered portion of each lateral surface, further has a lower edge which intersects and terminates at an associated upper edge of said vertical planar lower side. Although Barth et al. does not explicitly recite an angular range of intersection between the associated edges; Barth et al. does disclose the beveled portion (22) for "for both functional and aesthetic reasons...bevel 22 aids in directing water from the top surface (6) of the stones (2)". Therefore, it would have been obvious, if not inherent that the upper and lower edges, of the upper tapered and lower vertical planar portions of the lateral surfaces (4), could intersect, in the range of 0-15<sup>0</sup>, such that upper surfaces (6) of neighboring stones were, spaced horizontally apart, in order to facilitate drainage of surface water, as clearly disclosed, by Barth et al. See col. 3, Ins. 36-48.

In regards to Claims 2, 6, 7, 16 Barth et al. discloses the use of at least one drainage the paving stones (2) are made of an impervious material, such as concrete; Col. 1.

Although Barth et al. does not disclose the size of the recess (10a-d, 20) nor the extent of tapering of the upper tapered portion (22); Barth et al. does disclose both the size of the recesses (10, 20) and the amount of tapering are based on both functional and aesthetic reasons; provided the bevel aids in...quicker drying of the paved surface. Hence, it would have been obvious, if not inherent to size the recess and tapering, in order to accommodate average rainfall drainage. See Col. 3, Ins. 37-44; Fig. 51.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Barth et al. '698 in view of Ballard # 126,171.

Barth et al. '698 discloses a paving stone (2) having lateral surfaces with tapered upper portions (22), but does not disclose an associated beveled edge of the upper surface (6). However, Ballard '171 discloses it is desirable to form a paving block to form a roadway such that the side surfaces of the blocks define: A planar lower portion (h-g) an upper tapered portion (g-f, f-e), which could further include a recess (at b). An upper surface of said block (A) being defined by a beveled portion (a-b, d-e) disposed

between a horizontal, planar portion of said top surface, and said upper tapered portion (g-f, f-e). Said lateral side surfaces further comprising a recess (unnumbered, see Fig. 3), extending vertically. Said tapered and beveled surfaces of adjacent blocks (A) capable of receiving a filling medium, to facilitate drainage of the roadway. See Page 1. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the paving stone of Barth et al., with an upper surface having a communicating beveled portion, as taught by Ballard, in order to facilitate water drainage, with decreasing the aesthetic appearance of the pavement, as clearly taught by Barth et al., see col. 3, lns. 1-6.

4. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barth et al. '698 in view of Ludvigsen # 3,722,162.

Barth et al. '698 discloses a paving stone (2) having lateral surfaces with tapered upper portions (22), but does not disclose an associated beveled edge of the upper surface (6). However, Ludvigsen discloses a paving element having an upper surface (1), a bottom face (2), upper planar (3) and lower, tapered, side-surfaces (5) of a prismatic part (4). Said upper face (1) having a beveled portion (7), and a planar horizontal portions, below said tapered portion; thereby separating a generally horizontal, planar top surface (1) from the side surfaces (3); for ornamental reasons.

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See col. 2. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to provide the paving stone of Barth et al., with a tapered upper surface peripheral and horizontal (shoulder) portion, disposed below said tapered portion of said upper surface, as taught by Ludvigsen, in order to enhance the aesthetic appearance of the paved area, as disclosed by Barth et al. and Ludvigsen.

***Response to Arguments***

5. Applicant's arguments with respect to claims 20, 21, 2, 4, 6, 7, 16-19 have been considered but are moot in view of the new ground(s) of rejection.

***Response to Amendment***

6. Applicant's amendment introducing New Claims 20, 21 have necessitated a New Search of the Prior art, that has created the basis for a New Grounds of Rejection, as put forth above.

7. Applicant's arguments with respect to claims 20, 21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

In this case, Claims 20, 21 specifically defining the features of the tapered lateral surfaces within a specific angular range, in the independent claims, has necessitated a new search of the prior art.



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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

**RWA**  
**11/21/2003**